



5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 201

[Docket DARS-2018-0017]

RIN 0750-AJ69

Defense Federal Acquisition Regulation Supplement: Statement of Purpose for Department of Defense Acquisition (DFARS Case 2018-D005)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2018 to revise the DFARS to include a statement of purpose.

DATES: Effective **[Insert date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Hughes, telephone 571-372-6090.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to implement section 801 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY)

2018 (Pub. L. 115-404). Section 801 directs the insertion of a statement of purpose for Department of Defense acquisition in the DFARS. This rule adds the statement of purpose to DFARS 201.101.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule does not add any new provisions or clauses or impact existing provisions or clauses. The rule merely adds a purpose statement to the regulations.

III. Publication of this Final Rule for Public Comment is not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because

it clarifies the purpose of the defense system as required by the NDAA for FY 2018. There is no cost or administrative impact on contractors or offerors. These requirements affect only the internal operating guidance of the Government.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, because the rule relates to agency organization, management, or personnel.

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 201

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 201 is amended as follows:

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for part 201 continues to read as follows;

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Add section 201.101 to subpart 201.1 to read as follows:

201.101 Purpose.

(1) The defense acquisition system, as defined in 10 U.S.C 2545, exists to manage the investments of the United States in technologies, programs, and product support necessary to achieve the national security strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043) and to support the United States Armed Forces.

(2) The investment strategy of DoD shall be postured to support not only the current United States armed forces, but also future armed forces of the United States.

(3) The primary objective of DoD acquisition is to acquire quality supplies and services that satisfy user needs with measurable improvements to mission capability and operational support at a fair and reasonable price.

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